

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUN 16 2003

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Quanah, Archer City, Converse, Flatonia,)
Georgetown, Ingram, Keller, Knox City,)
Lakeway, Lago Vista, Llano, McQueeney,)
Nolanville, San Antonio, Seymour, Waco and)
Wellington, Texas, and Ardmore, Durant,)
Elk City, Healdton, Lawton and Purcell,)
Oklahoma.))

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 00-148

RM-9939

RM-10198

To: Chief, Audio Division
Media Bureau

PETITION FOR PARTIAL RECONSIDERATION
AND REQUEST FOR EXPEDITED ACTION

Rawhide Radio, LLC, Capstar TX Limited Partnership, and Clear Channel Broadcasting Licenses, Inc. (collectively "Joint Petitioners"), by their counsel, pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby petition for partial reconsideration of the *Report and Order* in the above-captioned proceeding, DA 03-1533 (rel. May 8, 2003). The *Report and Order* reviewed Joint Petitioners' Counterproposal and severed it into two parts. The Joint Petitioners ask the Commission to (i) reconsider that portion of the *Report and Order* which summarily dismissed the portion of their proposal to amend the FM Table of Allotments set forth in the footnote below (hereinafter "Proposal")^{1/} and (ii) issue a notice of proposed rule making

^{1/} The Joint Petitioners' Proposal consists of the following changes to the FM Table of Allotments: (1) reallocate Channel 249C1 from McQueeney, Texas to Converse, Texas (KVCQ); (2) allot Channel 232A to Flatonia, Texas; (3) delete Channel 244C1 at Georgetown, Texas and allot Channel 243C2 to Lago Vista, Texas (KHFI); (4) substitute Channel 256A for Channel 243A at Ingram, Texas (vacant); (5) delete Channel 248C at Waco, Texas and allot Channel 247C1 to Lakeway, Texas (KWTX); (6) substitute Channel 297A for Channel 242A at Llano, Texas (KBAE); (7) substitute Channel 249A for Channel 297A at Nolanville, Texas (KLFX); and (8) substitute Channel 245C1 for Channel 247C at San Antonio, Texas (KAJA).

Noted for record 014
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which includes the elements of the Proposal, together with conflicting FM rule making proposals which were filed with the Commission by other parties subsequent to the filing of the Counterproposal. Due to the excessive delay (two and one-half years) in taking the initial action on the Proposal, the Joint Petitioners request that the Commission take this action on an expedited basis. In support, the following is stated:

1. This proceeding initially involved a proposal to add an FM channel to Quanah, Texas. *See Notice of Proposed Rule Making*, 15 FCC Rcd 15809 (2002) (“NPRM”). The Joint Petitioners timely filed a Counterproposal on October 10, 2000 which involved various communities in Texas and Oklahoma. Two and one-half years later, the Commission issued the *Report and Order*, which considered the Proposal as being separate and distinct from other elements of the counterproposal. It denied the other elements of the counterproposal due to a short spacing between the proposed substitution of Channel 230C1 at Archer City, Texas, and the then-pending application for Station KICM, Krum, Texas. *Report and Order* at ¶¶ 4-5. It also denied the Proposal, but not because of any technical defect – rather, solely on the ground that it did not conflict with the proposed allotment to Quanah, Texas, as set forth in the NPRM.^{2/} *Report and Order* at ¶¶ 6-7.

² The Commission also stated that it “no longer entertains alternative proposals set forth in counterproposals,” citing *Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (2001). However, this policy does not bar acceptance and consideration of the Joint Petitioners’ Proposal for two reasons. First, this Proposal predates the stated change in policy. It was filed on October 10, 2000, at a time when the Commission routinely accepted and processed alternative proposals. The Commission did not change that policy until May, 2001. *Winslow, supra*. In doing so, it stated that the policy would become effective as to “an initial petition for rule making or in a counterproposal” upon publication in the Federal Register. *Id.* See 66 Fed. Reg. 29237 (May 30, 2001). It therefore has no applicability to the prior-filed instant Proposal. Second, the instant Proposal is not an “alternative proposal” within the scope of the *Winslow* policy. That policy was expressly designed to prevent alternatives in which the Commission was put to a choice as to which alternative to adopt, and consequently open itself to second-guessing on reconsideration. *See Winslow, supra*, 16 FCC Rcd at 9555 (“even a single optional or alternative proposal has required us to speculate on the proposal actually preferred by the proponent or what proposal would, in our view, have the greatest public interest benefit.”). In this case, there was no choice. If the counterproposal as a whole were defective, then one or the other of the two severed portions would necessarily be defective as well. Thus, only one of them *could* be grantable, and the Commission was not required

Cont’d. . . .

2. There is no dispute that the Proposal, standing alone, was facially acceptable. Accordingly, the Joint Petitioners submit that the Commission was *required* to consider the Proposal on its own merits and erred in dismissing it entirely. The Commission's decision to dismiss the Proposal without substantive consideration was contrary to principles of fundamental due process as embodied in the Administrative Procedure Act, inconsistent with a substantial body of case law (including a case decided as recently as May 30, 2003), and contrary to the public interest.

3. Under 5 U.S.C. § 553(e) of the APA, the Commission is required to give an interested person the right to petition for the issuance of a rule. If such a petition is denied, the agency must give prompt notice of its denial, and the reasons therefor. 5 U.S.C. § 555(e). It is not within the Commission's power to reject a petition for rule making outright unless it is patently defective. *National Org. for the Reform of Marijuana Laws v. Ingersoll*, 497 F.2d 654 (D.C. Cir. 1974); *See Municipal Light Boards v. FPC*, 450 F.2d 1341, 1345 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972) (rejection of a filing is appropriate if "the filing is so deficient on its face that the agency may properly return it to the filing party without even awaiting a responsive filing by any other party in interest"). The Joint Petitioners' Proposal was clearly *not* deficient on its face. Hence, the Commission was required to consider its merits.

4. Since the formation of the FM Table of Allotments, the Commission has entertained proposals for rule making to amend the FM Table of Allotments on a first-come, first-served basis. A *counterproposal* is simply a proposal for rule making that is mutually

... Cont'd.

to choose. Since the Commission found that the Joint Petitioners' Proposal was not in conflict with the proposed allotment to Quanah, Texas, it correctly treated it as a separate Proposal, not as an alternative. Thus, the *Winslow* policy was not a bar to accepting the Proposal and issuing a notice of proposed rule making.

exclusive with (and timely filed with respect to) another pending proposal. *See Implementation of BC Docket 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931 (1990). It is the element of mutual exclusivity that converts a proposal into a counterproposal. *See Pinewood, South Carolina*, 5 FCC Rcd 7609 (1990) (a mutually exclusive rule making proposal submitted by the counterproposal deadline in a proceeding is considered in the context of that proceeding).

5. On the other hand, if mutual exclusivity is not present, an FM rule making counterproposal is just like any other proposal to amend the FM Table of Allotments, and must be accepted and considered like every other FM rule making proposal, based on the date it was filed with the Commission. The Commission has consistently followed this rule. Most recently, in *Noblesville, Indianapolis, and Fishers, Indiana*, DA 03-1118 (rel. May 30, 2003), the Commission rejected a proposal that was not mutually exclusive with the original petition, but held that the proposal would be considered in a separate proceeding. *Id.* at ¶¶ 1 and 3 n.4. This is virtually identical to the present situation. *See also Saratoga, Wyoming et al.*, 15 FCC Rcd 10358, 10359 (2000) (counterproposal no longer in conflict with initial proposal treated as a new petition for rule making in a separate proceeding); *Alva, Oklahoma, et al.*, 11 FCC Rcd 20915 (1996) (counterproposal not in conflict with initial proposal accepted as a new petition); *Oakdale and Campti, Louisiana*, 7 FCC Rcd 1033 n.5 (1992) (proposal not in conflict with initial proposal set forth in separate notice of proposed rule making); *Kingston, Tennessee*, 2 FCC Rcd 3589 n.1 (1987) (proposal not in conflict with pending proposal accepted in a proceeding); *Cazenovia, New York, et al.*, 2 FCC Rcd 1169, 1171 n.2 (1987) (separate proceeding initiated to address non-conflicting counterproposal filed elsewhere). In the *Report and Order*, the Commission gave no reason why it treated the Joint Petitioners' Proposal differently than these

other proposals which involved counterproposals found not to be in conflict with initial rule making proposals.³ By failing to issue a separate notice of proposed rule making for the Proposal, the Commission deviated from past practice and did not act in accordance with the public interest.

6. The Commission must accept the Joint Petitioners' Proposal as a new petition for rule making on a *nunc pro tunc* basis – that is, with a priority dating back to the date it was filed, October 10, 2000. It is not appropriate for the Commission to dismiss the Proposal after two and one-half years and invite the Joint Petitioners to refile it, particularly given the Commission's actions in the intervening years since it was filed. In theory, if the Commission had done everything correctly, the Proposal would have been afforded protection from untimely applications and petitions, and the spectrum would currently be clear for the refiling of the same proposal. However, the Commission did not do everything correctly. Not only did it take two and one-half years – an unconscionable length of time – to find that the Joint Petitioners' Proposal did not conflict with the original proposal in the proceeding, but in violation of its own procedural rules, the Commission also accepted eight FM rule making proposals and granted one FM application which conflict with the Joint Petitioners' earlier filed Proposal. *See* Exhibit A. As the attached channel studies demonstrate, the Joint Petitioners cannot refile the Proposal as a new proposal, because it would conflict with numerous proposals which the Commission erroneously accepted after the Joint Petitioners' Proposal was filed. *See* Exhibit B.

³ A different situation is presented when a proposal is not mutually exclusive but rather *contingent* upon a specific outcome in a pending proceeding. In such situations, the Commission may dismiss the contingent proposal and it can be refiled when the proceeding has been concluded. *See Eufaula, Wagoner, Warner, and Sand Springs, Oklahoma*, 12 FCC Rcd 3743 (1997).

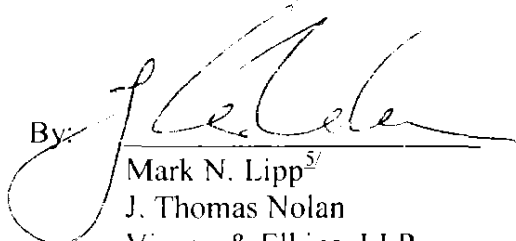
7. It would be unfair to require the Joint Petitioners to refile now, and somehow protect the subsequently filed proposals and allotments identified in Exhibit A, given that the Joint Petitioners filed first, and that the subsequent proposals were accepted erroneously. At this point, the Commission must consider the Joint Petitioners' Proposal in a new proceeding, dating back to the initial filing date of October 10, 2000. The Commission may also consider the proposals set forth in Exhibit A and consolidate them into one proceeding with the Joint Petitioners' Proposal.^{4/}

WHEREFORE, for the foregoing reasons, the Commission should issue a new notice of proposed rule making soliciting comment on Joint Petitioners' Proposal as originally filed on October 10, 2000, and the proposals set forth in Exhibit A. In view of the unconscionable length of time that has passed since the Proposal was filed, the Commission should take this action on an expedited basis.

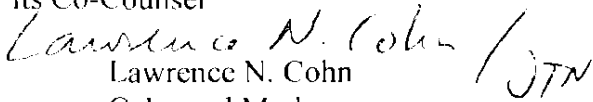
⁴ One of these proposals, the allotment of Channel 232A at Victoria, Texas, was advanced in a counterproposal in MM Docket No. 02-248. However, this proceeding is still undecided, and the Victoria proposal could be consolidated with the Joint Petitioners' Proposal.

The conflicting construction permit for Channel 255C1 at Dilley, Texas (Station KLMO-FM) is another matter. The permit (BPH-20010102AAC) was issued in error because it conflicted with the prior-filed proposal to substitute Channel 256A at Ingram, Texas. Fortunately, there is a simple solution to this problem. The construction permit in fact does protect Channel 256A at Ingram. The permit was issued pursuant to Section 73.215 with respect to Stations KAYG, Camp Wood, Texas; KBUC, Pleasanton, Texas; and KJFK, Lampasas, Texas, and in affording contour protection to those stations it also affords contour protection to the Ingram allotment. Should the Joint Petitioners' Proposal be granted, the Dilley construction permit, with Section 73.215 protection towards Ingram, would not be affected.

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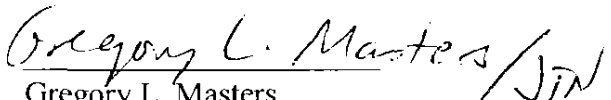

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June 16, 2003

Respectfully submitted,

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⁵ Please note the new address for counsel.

EXHIBIT A

| | <u>Channel</u> | <u>Docket No.</u> | <u>Community</u> | <u>Petitioner</u> | <u>Date Filed</u> | <u>Comments</u> |
|----|----------------|--------------------------------|-----------------------|------------------------------------|-----------------------|--|
| 1. | 255C1 | Unbuilt (CP) KLMO- FM | Dilley, Texas | Dilley Broadcasters | 1/2/01 | Construction permit, File No. BPH-20010102AAO, granted 4/17/02, short-spaced to Channel 256A at Ingram, Texas. Provides Section 73.215 contour protection to proposed Ingram allotment with no change in facilities. |
| 2. | 232A | 01-105 | Shiner, Texas | Stargazer Broadcasting, Inc. | 4/6/01 | Conflicts with proposed allotment of Channel 232A at Flatonia, Texas. |
| 3. | 256A | ----- | Harper, Texas | Charles Crawford | 5/7/01 | Conflicts with proposed substitution of Channel 256A for Channel 243A at Ingram, Texas. |
| 4. | 245C3 | 01-153 | Tilden, Texas | Charles Crawford | 5/18/01 | Conflicts with proposed substitution of Channel 245C1 for Channel 247C at San Antonio, Texas. |
| 5. | 250A | 01-130 | Batesville, Texas | Charles Crawford | 5/21/01 5/23/01 | Conflicts with proposed reallocation of Channel 249C1 from McQueeney to Converse, Texas. |
| 6. | 249C3 | 01-133 | Mason, Texas | Charles Crawford | 5/25/01 | Conflicts with proposed reallocation of Channel 249C1 from McQueeney to Converse, Texas. |
| 7. | 297A | 01-154 | Goldthwaite, Texas | Charles Crawford | 5/29/01 | Conflicts with proposed substitution of Channel 297A for Channel 242A at Llano, Texas. |
| 8. | 243A | 01-188 | Evant, Texas | Charles Crawford | 6/15/01 | Conflicts with proposed substitution of Channel 243C2 at Lago Vista, Texas for Channel 244C1 at Georgetown, Texas. |
| 9. | 232A | 02-248 | Victoria, Texas | New Ulm Broadcasting Co. | 10/21/02 | Conflicts with proposed allotment of Channel 232A at Flatonia, Texas. |

EXHIBIT B

Channel 247C1 Lakeway Texas (KWTX)
Allocation Study

REFERENCE

30 18 27 N
97 46 46 W

CLASS = C1
Current Spacings

DISPLAY DATES

DATA 04-24-03
SEARCH 05-25-03

----- Channel 247 - 97.3 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|-------------|----|--------|-------|-------|---------|
| RADD | ADD 247C1 | Lakeway | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| RDEL | DEL 248C | Waco | TX | 0.00 | 0.0 | 209.0 | -209.00 |
| KAJA | LIC 247C | San Antonio | TX | 125.95 | 226.5 | 270.0 | -144.05 |
| RDEL | DEL 247C | San Antonio | TX | 131.56 | 227.3 | 270.0 | -138.44 |
| KWTXFM | LIC 248C | Waco | TX | 122.70 | 21.2 | 209.0 | -86.30 |
| KWTXFM | CP 248C | Waco | TX | 122.73 | 21.3 | 209.0 | -86.27 |
| RDEL | DEL 244C1 | Georgetown | TX | 2.63 | 308.6 | 82.0 | -79.37 |
| KHFIFM | LIC 244C1 | Georgetown | TX | 2.63 | 308.6 | 82.0 | -79.37 |
| RDEL | DEL 244C1 | Georgetown | TX | 19.20 | 328.5 | 82.0 | -62.80 |
| RADD | ADD 248C2 | Marlin | TX | 111.55 | 32.1 | 158.0 | -46.45 |
| RDEL | DEL 248C2 | Waco | TX | 144.96 | 22.4 | 158.0 | -13.04 |
| RADD | ADD 249A | Nolanville | TX | 89.23 | 12.2 | 75.0 | 14.23 |
| ALLO | RSV 249C1 | McQueeney | TX | 105.99 | 173.9 | 82.0 | 23.99 |
| KVCQ.C | CP 249C1 | McQueeney | TX | 107.38 | 173.1 | 82.0 | 25.38 |
| RADD | ADD 249C1 | Converse | TX | 119.75 | 214.7 | 82.0 | 37.75 |
| RDEL | DEL 249C1 | McQueeney | TX | 119.75 | 214.7 | 82.0 | 37.75 |
| RADD | ADD 249C1 | Converse | TX | 119.75 | 214.7 | 82.0 | 37.75 |
| RADD | ADD 245C1 | San Antonio | TX | 131.56 | 227.3 | 82.0 | 49.56 |

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Channel 245C1 San Antonio Texas (KAJA)
Allocation Study

REFERENCE

29 30 01 N
98 46 41 W

CLASS = C1

Current Spacings

DISPLAY DATES

DATA 04-24-03
SEARCH 05-25-03

----- Channel 245 - 96.9 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|----------------|----|--------|-------|-------|---------|
| RADD | ADD 245C1 | San Antonio | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| RDEL | DEL 247C | San Antonio | TX | 0.00 | 0.0 | 105.0 | -105.00 |
| KAJA | LIC 247C | San Antonio | TX | 5.88 | 63.8 | 105.0 | -99.12 |
| RADD | ADD 245C3 | Tilden | TX | 115.28 | 167.0 | 211.0 | -95.72 |
| RDEL | DEL 244C1 | Georgetown | TX | 131.18 | 45.6 | 177.0 | -45.82 |
| KHFIFM | LIC 244C1 | Georgetown | TX | 131.18 | 45.6 | 177.0 | -45.82 |
| RDEL | DEL 244C1 | Georgetown | TX | 136.54 | 38.8 | 177.0 | -40.46 |
| ALLO | 244 | Piedras Negras | CI | 190.58 | 242.9 | 209.0 | -18.42 |
| KIOXFM | LIC 245C1 | El Campo | TX | 244.51 | 105.5 | 245.0 | -0.49 |
| KXYLFM | LIC 245C1 | Brownwood | TX | 245.29 | 355.1 | 245.0 | 0.29 |
| ALLO | USE 245C1 | Brownwood | TX | 245.29 | 355.1 | 245.0 | 0.29 |
| ALLO | VAC 243A | Ingram | TX | 77.53 | 325.5 | 75.0 | 2.53 |
| RDEL | DEL 243A | Ingram | TX | 77.53 | 325.5 | 75.0 | 2.53 |
| KXYLFM | CP 245C1 | Brownwood | TX | 254.82 | 348.2 | 245.0 | 9.82 |
| KXTNFM | LIC 298C | San Antonio | TX | 55.78 | 116.6 | 41.0 | 14.78 |
| RDEL | DEL 248C | Waco | TX | 131.56 | 46.8 | 105.0 | 26.56 |
| ALLO | 246 | Nuevo Laredo | TA | 226.44 | 200.9 | 195.0 | 31.44 |
| XHNLOF | OPE 246B | Nuevo Laredo | TA | 234.75 | 197.7 | 195.0 | 39.75 |
| ALLO | VAC 242A | Cotulla | TX | 118.05 | 201.0 | 75.0 | 43.05 |
| RADD | ADD 247C1 | Lakeway | TX | 131.56 | 46.8 | 82.0 | 49.56 |
| RADD | ADD 243C2 | Lago Vista | TX | 136.54 | 38.8 | 79.0 | 57.54 |
| RADD | ADD 243C2 | Lago Vista | TX | 136.54 | 38.8 | 79.0 | 57.54 |
| KBAE | LIC 242A | Llano | TX | 133.02 | 8.5 | 75.0 | 58.02 |
| RDEL | DEL 242A | Llano | TX | 137.01 | 6.6 | 75.0 | 62.01 |
| ALLO | VAC 242A | Yorktown | TX | 139.47 | 111.1 | 75.0 | 64.47 |
| RDEL | DEL 242A | Yorktown | TX | 139.47 | 111.1 | 75.0 | 64.47 |
| RADD | ADD 242A | Shiner | TX | 146.30 | 91.0 | 75.0 | 71.30 |
| RADD | ADD 242A | Flatonia | TX | 152.30 | 84.7 | 75.0 | 77.30 |
| RVAC | VAC 299A | Leakey | TX | 110.40 | 281.9 | 22.0 | 88.40 |

42

Channel 243C2 Lago Vista Texas (KHFI)
Allocation Study

REFERENCE

30 27 18 N

97 53 03 W

CLASS = C2

Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 243 - 96.5 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|-----------------|----|--------|-------|-------|---------|
| RADD | ADD 243C2 | Lago Vista | TX | 0.00 | 0.0 | 190.0 | -190.00 |
| RADD | ADD 243C2 | Lago Vista | TX | 0.00 | 0.0 | 190.0 | -190.00 |
| RDEL | DEL 244C1 | Georgetown | TX | 0.00 | 0.0 | 158.0 | -158.00 |
| KHFIFM | LIC 244C1 | Georgetown | TX | 16.76 | 151.5 | 158.0 | -141.24 |
| RDEL | DEL 244C1 | Georgetown | TX | 16.76 | 151.5 | 158.0 | -141.24 |
| RADD | ADD 243A | Evant | TX | 116.79 | 347.3 | 166.0 | -49.21 |
| KBAE | LIC 242A | Llano | TX | 70.73 | 291.6 | 106.0 | -35.27 |
| RDEL | DEL 242A | Llano | TX | 76.07 | 293.7 | 106.0 | -29.93 |
| RDEL | DEL 243A | Ingram | TX | 136.65 | 252.3 | 166.0 | -29.35 |
| ALLO | VAC 243A | Ingram | TX | 136.65 | 252.3 | 166.0 | -29.35 |
| KHMX | LIC 243C | Houston | TX | 248.90 | 112.6 | 249.0 | -0.10 |
| ALLO | VAC 240A | Burnet | TX | 58.88 | 318.5 | 55.0 | 3.88 |
| RADD | ADD 242A | Flatonia | TX | 113.30 | 145.1 | 106.0 | 7.30 |
| RADD | ADD 242A | Shiner | TX | 124.32 | 151.5 | 106.0 | 18.32 |
| KGSR | LIC 296C2 | Bastrop | TX | 47.18 | 141.6 | 20.0 | 27.18 |
| RADD | ADD 240A | Giddings | TX | 85.33 | 104.6 | 55.0 | 30.33 |
| KXXM | LIC 241C1 | San Antonio | TX | 116.09 | 218.4 | 79.0 | 37.09 |
| RDEL | DEL 242A | Yorktown | TX | 162.40 | 164.7 | 106.0 | 56.40 |
| ALLO | VAC 242A | Yorktown | TX | 162.40 | 164.7 | 106.0 | 56.40 |
| RADD | ADD 245C1 | San Antonio | TX | 136.54 | 219.3 | 79.0 | 57.54 |
| KLFX | LIC 297A | Nolanville | TX | 75.49 | 21.1 | 15.0 | 60.49 |
| RADD | ADD 297A | Llano | TX | 76.07 | 293.7 | 15.0 | 61.07 |
| RDEL | DEL 297A | Nolanville | TX | 76.55 | 22.1 | 15.0 | 61.55 |
| KLFX.A | APP 297A | Nolanville | TX | 76.55 | 22.1 | 15.0 | 61.55 |
| KSCS | LIC 242C | Fort Worth | TX | 252.00 | 19.9 | 188.0 | 64.00 |
| KLTG | LIC 243C1 | Corpus Christi | TX | 302.04 | 174.7 | 224.0 | 78.04 |
| RADD | ADD 241C2 | College Station | TX | 145.36 | 76.2 | 58.0 | 87.36 |

46

Channel 297A Llano Texas (KBAE)
Allocation Study

REFERENCE

30 43 40 N

98 36 43 W

CLASS = A

Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 297 - 107.3 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|--------------|----|--------|-------|-------|---------|
| RADD | ADD 297A | Llano | TX | 0.00 | 0.0 | 115.0 | -115.00 |
| RADD | ADD 297A | Goldthwaite | TX | 83.45 | 353.0 | 115.0 | -31.55 |
| KLFX | LIC 297A | Nolanville | TX | 104.85 | 67.1 | 115.0 | -10.15 |
| KLFX.A | APP 297A | Nolanville | TX | 106.60 | 67.3 | 115.0 | -8.40 |
| RDEL | DEL 297A | Nolanville | TX | 106.60 | 67.3 | 115.0 | -8.40 |
| KXTNFM | LIC 298C | San Antonio | TX | 164.52 | 168.2 | 165.0 | -0.48 |
| KHLBFM | LIC 295A | Burnet | TX | 30.53 | 88.1 | 31.0 | -0.47 |
| RADD | ADD 297A | Junction | TX | 114.91 | 255.1 | 115.0 | -0.09 |
| KFANFM | LIC 300C2 | Johnson City | TX | 58.90 | 182.5 | 55.0 | 3.90 |
| KFANFM | APP 300C2 | Johnson City | TX | 58.90 | 182.5 | 55.0 | 3.90 |
| RADD | ADD 296A | Brady | TX | 83.88 | 301.9 | 72.0 | 11.88 |
| KGSR | LIC 296C2 | Bastrop | TX | 119.83 | 124.0 | 106.0 | 13.83 |

#51

Channel 249A Nolanville Texas (KLFX)
Allocation Study

REFERENCE

31 05 38 N
97 34 51 W

CLASS = A
Current Spacings

DISPLAY DATES
DATA 04-24-03
SEARCH 05-25-03

----- Channel 249 - 97.7 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|------------------|------------|----------|--------|-------|-------|---------|--------|
| KWTXFM LIC 248C | Waco | TX | 37.34 | 43.5 | 165.0 | -127.66 | |
| KWTXFM CP 248C | Waco | TX | 37.38 | 43.5 | 165.0 | -127.62 | |
| RADD ADD 249A | Nolanville | TX | 0.00 | 0.0 | 115.0 | -115.00 | |
| RDEL DEL 248C | Waco | TX | 89.23 | 192.3 | 165.0 | -75.77 | |
| RADD ADD 248C2 | Marlin | TX | 41.12 | 80.0 | 106.0 | -64.88 | |
| RDEL DEL 248C2 | Waco | TX | 59.32 | 38.0 | 106.0 | -46.68 | |
| ALLO RSV 249C1 | Mcqueeney | TX | 192.74 | 182.4 | 200.0 | -7.26 | |
| KVCQ.C CP 249C1 | Mcqueeney | TX | 193.88 | 181.8 | 200.0 | -6.12 | |
| RDEL DEL 249C1 | Mcqueeney | TX | 205.04 | 205.2 | 200.0 | 5.04 | |
| RADD ADD 249C1 | Converse | TX | 205.04 | 205.2 | 200.0 | 5.04 | |
| RADD ADD 249C1 | Converse | TX | 205.04 | 205.2 | 200.0 | 5.04 | |
| KVLZ LIC 252A | Gatesville | TX | 41.39 | 343.7 | 31.0 | 10.39 | |
| KASZ.A APP 252A | Gatesville | TX | 41.39 | 343.7 | 31.0 | 10.39 | |
| KBFB LIC 250C | Dallas | TX | 175.53 | 19.1 | 165.0 | 10.53 | |
| KVETFM LIC 251C1 | Austin | TX | 87.98 | 193.8 | 75.0 | 12.98 | |
| RADD ADD 247C1 | Lakeway | TX | 89.23 | 192.3 | 75.0 | 14.23 | |
| RADD ADD 249C3 | Mason | TX | 159.74 | 255.6 | 142.0 | 17.74 | |

54

Channel 249C1 Converse Texas (KVCQ)
Allocation Study

REFERENCE

29 25 07 N

98 29 02 W

CLASS = C1
Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 249 - 97.7 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|-------------|----|--------|-------|-------|---------|
| RADD | ADD 249C1 | Converse | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| RADD | ADD 249C1 | Converse | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| RDEL | DEL 249C1 | Mcqueeney | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| ALLO | RSV 249C1 | Mcqueeney | TX | 79.95 | 94.8 | 245.0 | -165.05 |
| KVCQ.C | CP 249C1 | Mcqueeney | TX | 81.78 | 95.5 | 245.0 | -163.22 |
| RDEL | DEL 248C | Waco | TX | 119.75 | 34.3 | 209.0 | -89.25 |
| KVCQ | LIC 249C3 | Mcqueeney | TX | 126.92 | 107.3 | 211.0 | -84.08 |
| KAJA | LIC 247C | San Antonio | TX | 26.00 | 296.8 | 105.0 | -79.00 |
| RDEL | DEL 247C | San Antonio | TX | 29.94 | 287.8 | 105.0 | -75.06 |
| RADD | ADD 249C3 | Mason | TX | 160.55 | 334.9 | 211.0 | -50.45 |
| RADD | ADD 250A | Batesville | TX | 109.41 | 246.7 | 133.0 | -23.59 |
| RADD | ADD 250A | George West | TX | 134.86 | 166.5 | 133.0 | 1.86 |
| RADD | ADD 249A | Nolanville | TX | 205.04 | 24.7 | 200.0 | 5.04 |
| KFTX | LIC 248C1 | Kingsville | TX | 204.94 | 155.0 | 177.0 | 27.94 |
| ALLO | 248 | San Carlos | CI | 238.39 | 260.1 | 209.0 | 29.39 |
| KWTXFM | LIC 248C | Waco | TX | 240.78 | 27.5 | 209.0 | 31.78 |
| KWTXFM | CP 248C | Waco | TX | 240.82 | 27.5 | 209.0 | 31.82 |
| RADD | ADD 247C1 | Lakeway | TX | 119.75 | 34.3 | 82.0 | 37.75 |
| KVETFM | LIC 251C1 | Austin | TX | 120.10 | 33.1 | 82.0 | 38.10 |

55-

Channel 249C1 McQueeney Texas (KVCQ)
Allocation Study

REFERENCE

29 25 07 N

98 29 02 W

CLASS = C1

Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 249 - 97.7 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|-------------|----|--------|-------|-------|---------|
| RADD | ADD 249C1 | Converse | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| RADD | ADD 249C1 | Converse | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| RDEL | DEL 249C1 | McQueeney | TX | 0.00 | 0.0 | 245.0 | -245.00 |
| ALLO | RSV 249C1 | McQueeney | TX | 79.95 | 94.8 | 245.0 | -165.05 |
| KVCQ.C | CP 249C1 | McQueeney | TX | 81.78 | 95.5 | 245.0 | -163.22 |
| RDEL | DEL 248C | Waco | TX | 119.75 | 34.3 | 209.0 | -89.25 |
| KVCQ | LIC 249C3 | McQueeney | TX | 126.92 | 107.3 | 211.0 | -84.08 |
| KAJA | LIC 247C | San Antonio | TX | 26.00 | 296.8 | 105.0 | -79.00 |
| RDEL | DEL 247C | San Antonio | TX | 29.94 | 287.8 | 105.0 | -75.06 |
| RADD | ADD 249C3 | Mason | TX | 160.55 | 334.9 | 211.0 | -50.45 |
| RADD | ADD 250A | Batesville | TX | 109.41 | 246.7 | 133.0 | -23.59 |
| RADD | ADD 250A | George West | TX | 134.86 | 166.5 | 133.0 | 1.86 |
| RADD | ADD 249A | Nolanville | TX | 205.04 | 24.7 | 200.0 | 5.04 |
| KFTX | LIC 248C1 | Kingsville | TX | 204.94 | 155.0 | 177.0 | 27.94 |
| ALLO | 248 | San Carlos | CI | 238.39 | 260.1 | 209.0 | 29.39 |
| KWTXFM | LIC 248C | Waco | TX | 240.78 | 27.5 | 209.0 | 31.78 |
| KWTXFM | CP 248C | Waco | TX | 240.82 | 27.5 | 209.0 | 31.82 |
| RADD | ADD 247C1 | Lakeway | TX | 119.75 | 34.3 | 82.0 | 37.75 |
| KVETFM | LIC 251C1 | Austin | TX | 120.10 | 33.1 | 82.0 | 38.10 |

60A

Channel 256A Ingram Texas (Vacant Channel 243A)
Allocation Study

REFERENCE
30 04 30 N
99 14 06 W

CLASS = A
Current Spacings

DISPLAY DATES
DATA 04-24-03
SEARCH 05-25-03

----- Channel 256 - 99.1 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|--------|-----------|-------------|----|--------|-------|-------|---------|
| RADD | ADD 256A | Ingram | TX | 0.00 | 0.0 | 115.0 | -115.00 |
| RADD | ADD 256A | Harper | TX | 23.95 | 349.3 | 115.0 | -91.05 |
| KAYG | LIC 256A | Camp Wood | TX | 85.32 | 242.2 | 115.0 | -29.68 |
| KLMOFM | CP 255C1 | Dilley | TX | 125.57 | 182.0 | 133.0 | -7.43 |
| RADD | ADD 257A | Leakey | TX | 72.07 | 239.5 | 72.0 | 0.07 |
| KBBT | LIC 253C1 | Schertz | TX | 78.61 | 141.0 | 75.0 | 3.61 |
| ALLO | USE 253C1 | Schertz | TX | 78.61 | 141.0 | 75.0 | 3.61 |
| KHHL | LIC 255C1 | Leander | TX | 139.75 | 58.5 | 133.0 | 6.75 |
| KHHL.C | CP 255C2 | Leander | TX | 139.05 | 75.0 | 106.0 | 33.05 |
| KLMOFM | LIC 255C1 | Dilley | TX | 167.19 | 180.5 | 133.0 | 34.19 |
| KISSFM | LIC 258C | San Antonio | TX | 129.21 | 133.3 | 95.0 | 34.21 |
| RADD | ADD 259A | Mason | TX | 74.83 | 0.1 | 31.0 | 43.83 |

#61

Channel 232A Flatonia Texas (Proposed Allotment)
 Allocation Study

REFERENCE
 29 37 00 N
 97 12 44 W

CLASS = A
 Current Spacings

DISPLAY DATES
 DATA 04-24-03
 SEARCH 05-25-03

----- Channel 232 - 94.3 MHz -----

| Call | Channel | Location | | Dist | Azi | FCC | Margin |
|---------|-----------|---------------|----|--------|-------|-------|---------|
| RADD | ADD 232A | Flatonia | TX | 0.00 | 0.0 | 115.0 | -115.00 |
| RDEL | DEL 232A | Flatonia | TX | 0.00 | 0.0 | 115.0 | -115.00 |
| RDEL | DEL 232A | Shiner | TX | 20.37 | 182.7 | 115.0 | -94.63 |
| RADD | ADD 232A | Shiner | TX | 20.37 | 182.7 | 115.0 | -94.63 |
| RADD | ADD 232A | Victoria | TX | 96.65 | 166.9 | 115.0 | -18.35 |
| KTBBZFM | LIC 233C | Houston | TX | 164.97 | 91.1 | 165.0 | -0.03 |
| KLBZFM | LIC 229C | Austin | TX | 95.10 | 324.2 | 95.0 | 0.10 |
| KAMX | LIC 234C | Luling | TX | 96.66 | 324.4 | 95.0 | 1.66 |
| KULF | LIC 231C3 | Brenham | TX | 96.42 | 52.5 | 89.0 | 7.42 |
| ALLO | VAC 231C2 | Brenham | TX | 120.45 | 44.1 | 106.0 | 14.45 |
| KULF.A | APP 231C2 | Brenham | TX | 120.45 | 44.1 | 106.0 | 14.45 |
| KAJI | LIC 231C3 | Point Comfort | TX | 105.86 | 152.6 | 89.0 | 16.86 |
| KAJI.C | CP 231C3 | Point Comfort | TX | 109.06 | 150.3 | 89.0 | 20.06 |
| KEMA | LIC 233C2 | Three Rivers | TX | 128.13 | 219.2 | 106.0 | 22.13 |
| KHTZ | LIC 232A | Cameron | TX | 138.76 | 7.2 | 115.0 | 23.76 |
| KLEYFM | LIC 231C2 | Floresville | TX | 135.11 | 249.4 | 106.0 | 29.11 |
| KEMA.A | APP 233C2 | Three Rivers | TX | 135.17 | 224.1 | 106.0 | 29.17 |
| KEMA.A | APP 233C2 | Three Rivers | TX | 135.17 | 224.1 | 106.0 | 29.17 |
| KRVL | LIC 232C2 | Kerrville | TX | 198.44 | 291.4 | 166.0 | 32.44 |
| KBUK | LIC 285A | La Grange | TX | 44.60 | 48.4 | 10.0 | 34.60 |
| RADD | ADD 235C2 | Ganado | TX | 91.22 | 150.4 | 55.0 | 36.22 |
| RDEL | DEL 231C3 | Point Comfort | TX | 131.82 | 145.2 | 89.0 | 42.82 |

CERTIFICATE OF SERVICE

I, Lisa Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that on this 16th day of June, 2003, I caused copies of the foregoing "Petition for Reconsideration" to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

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Lisa M. Balzer

* Hand Delivered